

Statement of Concern regarding Draft Report on the EU-India Free Trade Agreement Forum on FTA, March 4, 2009

Negotiations on a Free Trade Agreement between the European Union and India (EU-India FTA) have been underway since June 2007. Five rounds have been completed and several government and business summits have contributed to the negotiations. One of the worrying features about the negotiations has been the continuing secrecy surrounding them. No text has been made public and stakeholders (except some corporate representatives) and civil society in India do not have any access to the draft and discussions. Both the Indian Government and the European Commission (EC) have consistently refused to share information with civil society groups and the general public. Repeated calls for transparency and accountability have been ignored undermining the basic tenets of democratic policy making.

On December 18, 2008, the European Parliament (EP) Committee on International Trade (INTA) Rapporteur, Sajjad Karim, presented a Draft Report on the EU-India Free Trade Agreement (here after, the Report). The Report reflects the content of the discussions as well as the intentions of the European Union in its negotiation with India ([link to the Report](#)). This Report will be the basis of a resolution in the EP in the coming months (the vote in INTA will be held on March 5, 2009) and will provide guidance to the EC in the next phase of the negotiations ([List of tabled amendments](#)). The report reveals the exact coverage of the FTA under negotiation, which includes trade in goods; trade in services and establishment (also called trade related investments); public procurement; competition laws; and intellectual property rights (IPR).

NEGLECTED CONCERNS

- Provisions related to investment, intellectual property, competition policy, government procurement, services etc., require crucial changes in national law and policy. Such changes **reduce the policy space**. For instance, opening up government procurement (nearly 13% of India's GDP) to EU companies would seriously undermine **India's policy space to support small and medium enterprises, marginalized constituencies and poorer states**. Moreover, government procurement remains an important **tool to boost domestic production** during economic recession.

- Denying the principle of asymmetry to India and insisting on a complete elimination of duties on 90% of tariff lines is of great concern. This would create an import surge and result in **large-scale job loss and closure of manufacturing units especially in small and medium-scale industries**. The **hardest hit will be the informal sector** (ninety-two percent of India's 457 million strong workforce) which already has no job security and little income.

- Tariff elimination would create a considerable loss of revenue for the Government of India – a loss that is likely to have serious impact on **Government spending in social sectors like education and health and to increase domestic taxes to compensate this loss.**

- The EU's services and investment liberalization formula **expands the scope of coverage to affect virtually all public services.** Liberalisation of distribution services such as those linked up and down the food distribution chain would **threaten the livelihoods of small retailers and street vendors.** Provisions for completely opening up the banking sector would further exacerbate **financial exclusion of the poor from institutionalized credit and banking.** The liberalisation of environmental services such as **water and wastewater treatment** would lock in a policy framework that favors EU corporations.

- Intellectual Property Rights (IPR) provisions that go beyond WTO commitments (TRIPS-plus) would severely affect not only the country's biodiversity but also **farmers' rights to seeds.** If EU insists on a system of plant variety protection that favours plant breeders' rights over farmers' rights to seeds, India would then have to change its Protection of Plant Varieties and Farmers' Rights Act 2001. Such changes would have an adverse impact not only on the cost of commercial seeds but also on biodiversity. TRIPS-plus measure include data exclusivity which is a monopoly on medicines, whether patented or not, and **creates effective market barriers to safe, effective and affordable generics.** Data exclusivity would also limit India's ability to provide **access to affordable medicines** and further limit the ability of the Government to issue compulsory licenses on medicines.

- If FTA negotiations should include human rights concerns, then this should be reciprocal and should also include a comprehensive discussion on the human and environmental rights implications of the EU-India FTA. As per now, **this agreement is fundamentally anti-social and anti-environmental.**

Hence, it is anticipated that the EU-India FTA will have strong adverse affect on India's economy on several fronts such as through compromises on its sovereignty, the livelihood choices of a majority of its people - workers, farmers, fisherfolks, hawkers, adivasis and Dalits among others - limited access to low cost, quality generic drugs and Indian Government policy space. In the context of the present global economic crisis it is even more imperative that these consequences are better understood and addressed.

NEGLECTED ACKNOWLEDGEMENT OF EXTENSIVE CIVIL SOCIETY EFFORTS

In this regard, in June 2008, Indian and European civil society representatives met members of the EU Commission and Parliament in Brussels to present their concerns. In addition, several briefing documents have been published by European NGOs (Traidcraft, ActionAid, WIDE, among others) with input from Indian groups to highlight concerns on the consequences of the EU-India FTA in general and on specific communities in particular. A growing body of

literature also shows the serious risks faced by developing countries entering in far reaching FTA with developed countries. Those concerns have been ignored.

Civil society groups concerned with the adverse effects of FTAs on people's livelihoods and government policy space have come together under the banner of the Forum on FTAs. This coalition of over 70 groups and individuals called for the halt of EU-India FTA negotiations in September 2008, and again in November 2008 ([Statement, September 21](#), [Press release, November 26](#)). In addition, the Forum on FTAs met with the Members of the European Parliament (MEP) delegation, during its visit in Delhi in November 2008, to inform them of our concerns and formally presented a detailed note (dated November 26, 2008) to the EP, through Mr. Cambo, the Vice Chair of INTA and Head of INTA Delegation to India (Forum on FTA [Letter to MEPs](#) and [Background Note](#)). Sajjad Karim was also given a copy. This note maps key areas of concern and possible adverse impacts on vulnerable sections of Indian society. At the meeting MEPs assured the Forum that their concerns would be taken into account. However, Mr Karim's Draft Report does not reflect any of these key concerns.

The Draft Report is deeply flawed and neglects the extensive analysis and commentary made by public interest groups. Moreover, it is an expression of the undemocratic manner in which the negotiations are conducted, choosing to only include some stakeholders. The Indian government has also not made steps to ensure greater transparency in the process, hence, compelling Indian civil society to refer to EU government texts.

We call on the Members of European Parliament to reject the Report in its entirety, until the concerns raised above are publicly addressed;

We call on the Indian Government to stand for transparency in the negotiations and halt the negotiations until existing negotiating positions, draft proposals and government commissioned studies have been made public for a period of at least 6 month;

We call for the federal process of consultation with the state governments to take place and negotiations to be halted, until an all parties consensus is reached;

We call for consultations with key constituents such as trade unions, farmers, women, dalit, adivasi and other peoples' organizations, small and medium enterprises, cooperatives and hawkers, with at least six month for this public process; and

We call for a white paper to be released and discussed in Parliament on the socio-economic, policy and ecological impacts of all aspects of the EU-India FTA, especially addressing social inequality and discrimination.

The Forum on FTAs is an umbrella of groups and individual concerned with the adverse effects of India's FTAs.

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